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August 7, 2003

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Via Hand Delivery

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Request for Review by Albuquerque Public School District
CC Docket Nos. 96-45 and 97-21; DA 03-2206
EX PARTE PRESENTATION

Dear Secretary Dortch:

On August 6 and 7, 2003, the Executive Committee of the Albuquerque Board of Education (President Mary Lee Martin; Vice-President Paula Maes; and Secretary Berna V. Facio), the Albuquerque Public Schools (APS) Superintendent for Education (Dr. Elizabeth M. Everitt), the APS Technology Master Planner (Maureen Davidson), New Mexico Counsel for APS (Arthur D. Melendres) and F.C.C. Counsel for APS (Vincent J. Curtis, Jr.; Frank R. Jazzo; and Raymond J. Quianzon) met with various Commissioners and members of FCC staff to discussed the captioned Request for Review.

A written *ex parte* presentation and an oral presentation which enunciated portions of the Request for Review were presented to the following persons:

Christopher Libertelli of Chairman Powell's staff;
Commissioner Kathleen Abernathy and Matthew Brill of her staff;
Commissioner Michael Copps and Jessica Rosenworcel of his staff;
Scott Bergmann of Commissioner Adelstein's staff;
Chief William Maher, Deputy Chief Carol Matthey, and legal counsel Narda Jones of the Wireline Competition Bureau; and
Chief Eric N. Einhorn, Deputy Chief Mark Seifert, Jonathan Secrest and Kathy Tofigh of the Telecommunications Access Policy Division, Wireline Competition Bureau.

Marlene H. Dortch, Esq.
August 7, 2003
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Two copies of this notice and the single page written *ex parte* presentation are submitted herewith for inclusion in the public record. A copy of this letter and the written *ex parte* presentation are being submitted using the Commission's Electronic Comment Filing System. Further, a copy of this filing is being submitted to the Commissioners and Commission staff involved in the proceedings. Finally, a copy of this filing is being sent to the Commission's Copy Contractor and to the Commission's Telecommunications Access Policy Division.

Any questions regarding this presentation may be directed to the undersigned.

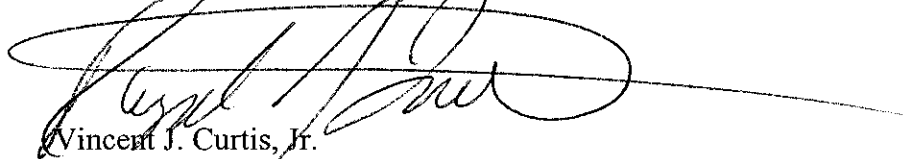
Very Truly Yours,

Modrall, Sperling, Roehl, Harris
& Sisk, P.A.



Arthur D. Melendres
Counsel for Albuquerque
Public School District

Fletcher, Heald & Hildreth, P.L.C.



Vincent J. Curtis, Jr.
Frank R. Jazzo
Raymond J. Quianzon
Counsel to Albuquerque
Public School District

enclosure

cc: Commissioner Kathleen Abernathy
Commissioner Michael Copps
William Maher, Chief, Wireline Competition Bureau
Christopher Libertelli
Matthew Brill
Jessica Rosenworcel
Scott Bergmann
Carol Matthey, Deputy Chief, Wireline Competition Bureau
Eric N. Einhorn, Chief, Telecommunications Access Policy Division
Mark Seifert, Deputy Chief, Telecommunications Access Policy Division
Narda Jones
Jonathan Secrest
Kathy Tofigh
Sheryl Todd, Telecommunications Access Policy Division
Qualex International

ALBUQUERQUE PUBLIC SCHOOLS' POSITION ON E-RATE APPEAL

The Albuquerque Public School District ("APS") requests Commission review of the March 24, 2003, Funding Commitment Decision Letter issued by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company .

Funding Request Numbers: 856741, 856765 and 856797

APS' Form 470 allows for competitive bidding on an existing program

Contrary to the denial of funding letter
the services requested were competitively bid

- The State of New Mexico has, through a competitive procurement process, obtained pricing agreements for use by all branches of the state government (state agencies, local public bodies, school districts, etc.)
- APS, after complying with FCC rules on submitting and posting Form 470, was able to use one of the selected vendors to achieve cost-effective and cost-efficient acquisition of quality products and services needed to implement its technology plan.
- APS' students should not be deprived of much-needed technology assistance due to the SLD's interpretation of statewide and local New Mexico procurement practices.
- If the SLD has now decided to reject previously accepted competitive bidding practices, its new standard should be clearly articulated and applied only prospectively.
- The ad hoc, retroactive prohibition that the SLD has applied to APS unfairly prejudices some of the nation's poorest students and is not in the public interest.

The APS' requested funding is
not designed to implement any "major new initiative."

- APS approved a Technology Master Plan ("TMP")
- The SLD had previously granted funding to APS to implement the TMP
- The requested funding is necessary to implement the next step in the TMP

APS filed a comprehensive Form 470 requesting specific services

- A review of Form 470s from other school districts reveals that several districts, whose requests for funding *were* granted, submitted virtually identical descriptions in their 470s.
 - The SLD also approved funding for a number of school districts whose Form 470s contained much broader and less specific service descriptions than APS.
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